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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,887	03/12/2007	Dirk Verdoes	294-247 PCT/US	3343
23869 7590 01/11/2010 HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791				
EXAMINER				
HRUSKOCI, PETER A				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
01/11/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,887

Applicant(s)

VERDOES ET AL.

Examiner

/Peter A. Hruskoci/

Art Unit

1797

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-16 is/are pending in the application.
- 4a) Of the above claim(s) 14-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 7, and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 94/11309 Verdoes et al. Verdoes et al. disclose (see pages 3-6) a method for removing at least one constituent from a solution substantially as claimed. The claims differ from Verdoes et al. by reciting that the pore size of the filter is greater than the particle size of the seed material. It is submitted that the particle size range of the seed material and pore size range of the filter disclosed in Verdoes et al. appear to include use of a filter pore size greater than the seed material particle size as in the instant method. It would have been obvious to one skilled in the art to modify the method of Verdoes et al. by utilizing the recited pore and particle sizes, to aid in removing at least one constituent from the solution. The specific pore and particle sizes utilized, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific solution treated and results desired, absent a sufficient showing of unexpected results.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 94/11309 Verdoes et al. as applied above, and further in view of Coltrinari et al. 5,660,735. The claim differs from Verdoes et al. as applied above, by reciting that the seed material comprises a specific organic material. Coltrinari et al. disclose (see col. 3 line 19 through col. 6 line 13) that it is known in the art to utilize cellulose fibers, to aid in precipitating and removing metals from solutions. It would have been obvious to one skilled in the art to modify the method of Verdoes

et al. by utilizing the recited seed material in view of the teachings of Coltrinari et al. , to aid in removing metal constituents from the solution.

Applicant's election with traverse of Group I, claims 1-4 and 6-13 in the reply filed on 11/9/09 is acknowledged. The traversal is on the grounds that the recitation of a heterogeneous particulate seed material in the instant claims is special technical feature that defines a contribution over the prior art, and relates to a single general concept. This is not found persuasive because this heterogeneous seed material appears to lack novelty or an inventive step in view of the teachings of WO 94/11309 Verdoes et al. (see pages 3-6). The restriction requirement is still deemed proper and is therefore made final.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Peter A. Hruskoci/ whose telephone number is (571) 272-1160. The examiner can normally be reached on Monday through Friday from 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter A. Hruskoci/
Primary Examiner
Art Unit 1797

1/6/10